

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**VERONICA AVELLANEDA
PLAINTIFF**

v.

**WAL-MART STORES, INC. AND
WAL-MART STORES TEXAS, LLC
DEFENDANT.**

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§
§
§
§
§

CIVIL ACTION NO.

INDEX OF ATTACHED STATE COURT PLEADINGS AND FILING DATES

| | | |
|----|--|----------|
| A. | State Court Docket Sheet | 10/04/18 |
| B. | Plaintiff's Original Petition and Request for Disclosure | 08/17/18 |
| C. | Plaintiff's Letter to Court (Request for Service) | 08/29/18 |
| D. | Civil Cover Sheet | N/A |
| E. | Citation Issued to Wal-Mart Stores Texas, LLC | 08/30/18 |
| F. | Service Return of Citation | 09/14/18 |
| G. | Wal-Mart Stores Texas, LLC's Original Answer | 09/24/18 |

EXHIBIT A

Case Information

DC-18-11330 | Veronica Avellaneda vs. WAL-MARTSTORES, INC, et al

| | | |
|-------------|-----------------------|------------------|
| Case Number | Court | Judicial Officer |
| DC-18-11330 | 116th District Court | PARKER, TONYA |
| File Date | Case Type | Case Status |
| 08/17/2018 | OTHER PERSONAL INJURY | OPEN |

Party

PLAINTIFF

Avellaneda, Veronica

Active Attorneys ▼

Lead Attorney
GOULD, WESLEY
Retained

Work Phone

214-953-0182

Fax Phone

214-953-0185

DEFENDANT

WAL-MARTSTORES, INC

Address

REGISTERED AGENT, CT CORPORATION
SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS TX 75201

DEFENDANT

WAL-MART STORES TEXAS, LLC

Address

REGISTERED AGENT, CT CORPORATION
SYSTEM
1999 BRYAN STREET, SUITE 900
DALLAS TX 75201

Active Attorneys ▼

Lead Attorney
DAVIS, DEREK
Retained

Work Phone

214-712-9500

Fax Phone

Events and Hearings

08/17/2018 NEW CASE FILED (OCA) - CIVIL

08/17/2018 ORIGINAL PETITION ▼

ORIGINAL PETITION

08/29/2018 REQUEST FOR SERVICE ▼

REQUEST FOR SERVICE

08/29/2018 CASE FILING COVER SHEET ▼

COVER SHEET

08/29/2018 ISSUE CITATION ▼

ISSUE CITATION

ISSUE CITATION

Comment
ESERVE

08/30/2018 CITATION ▼

Anticipated Server
ESERVE

Anticipated Method
Actual Server
PRIVATE PROCESS SERVER

Returned
09/14/2018

08/30/2018 CITATION ▼

Anticipated Server
ESERVE

Actual Server

PRIVATE PROCESS SERVER

Returned

09/14/2018

09/14/2018 RETURN OF SERVICE ▼

CITATION - WAL-MART STORES INC

Comment

CITATION - WAL-MART STORES INC

09/14/2018 RETURN OF SERVICE ▼

CITATION - WAL-MART STORES TEXAS LLC

Comment

CITATION - WAL-MART STORES TEXAS LLC

09/24/2018 ORIGINAL ANSWER - GENERAL DENIAL ▼

Avellaneda Wal-Mart Original Answer.pdf

Comment

DEFENDANT WAL-MART STORES TEXAS, LLC'S ORIGINAL
ANSWER TO PLAINTIFF'S ORIGINAL PETITION

Financial

Avellaneda, Veronica

| | |
|----------------------------|----------|
| Total Financial Assessment | \$308.00 |
| Total Payments and Credits | \$308.00 |

| | | |
|-----------|-------------|----------|
| 8/20/2018 | Transaction | \$292.00 |
| | Assessment | |

| | | | | |
|-----------|----------|---------|-------------|------------|
| 8/20/2018 | CREDIT | Receipt | Avellaneda, | (\$292.00) |
| | CARD - | # | Veronica | |
| | TEXTFILE | 53970- | | |
| | (DC) | 2018- | | |
| | | DCLK | | |

| | | |
|-----------|-------------|---------|
| 8/30/2018 | Transaction | \$16.00 |
| | Assessment | |

9/30/2018 CREDIT Receipt Avellaneda, Veronica (\$10.00)
CARD - #
TEXFILE 57345-
(DC) 2018-
DCLK

WAL-MART STORES TEXAS, LLC
Total Financial Assessment \$40.00
Total Payments and Credits \$40.00

9/24/2018 Transaction \$40.00
Assessment

9/24/2018 CREDIT CARD Receipt # WAL-MART (\$40.00)
- TEXFILE 63398- STORES
(DC) 2018- TEXAS,
DCLK LLC

Documents

- ORIGINAL PETITION
- REQUEST FOR SERVICE
- COVER SHEET
- ISSUE CITATION
- ISSUE CITATION
- CITATION - WAL-MART STORES INC
- CITATION - WAL-MART STORES TEXAS LLC
- Avellaneda Wal-Mart Original Answer.pdf

EXHIBIT B

7. Plaintiffs seeks monetary relief of over \$200,000.00, but not more than \$1,000,000.00.

II. NOTICE OF INTENT

8. Pursuant to Rule 193.7 of the Texas Rules of Civil Procedure, all parties are hereby on notice that Plaintiff intends to utilize any and all items or things produced in discovery at trial or any matter which requires Plaintiff to prove the authenticity of evidence produced.

II. PARTIES

3. Plaintiff Veronica Avellaneda is a resident of Dallas, Dallas County, Texas. The last three digits of Plaintiff Veronica Avellaneda's driver's license are 328. The last three digits of Plaintiff Michelle Firmin's social security number are 692.

4. Defendant Wal-Mart Stores, Inc. is a foreign for-profit corporation duly authorized to do business in the State of Texas, and may be served with process by and through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

5. Defendant Wal-Mart Stores Texas, LLC is a foreign limited liability company duly authorized to do business in the State of Texas, and may be served with process by and through its registered agent, CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201-3136.

III. VENUE AND JURISDICTION

6. Venue is proper in Dallas County, Texas in that the events giving rise to this cause of action and claims in this lawsuit occurred in Dallas County, Texas.

7. Jurisdiction is proper in that the damages sought well exceed the minimum jurisdictional limits of the Court.

IV. FACTS

8. Defendants own and operate the Wal-Mart Supercenter (“Store 5147”) located at 1521 N Cockrell Hill Rd., Dallas, Texas 75211.

9. At all times mentioned herein, Ms. Avellaneda was Defendants’ business invitee at Store 5147.

10. Ms. Avellaneda visited Store 5147 on the afternoon of August 19, 2016.

11. Ms. Avellaneda selected her items and returned to the front of the store to check out. Among the items she intended to purchase was a set of twenty-five lbs. dumbbells. Ms. Avellaneda put her items on the conveyer and the cashier scanned and returned them to the cart. However, when doing so the cashier stacked the two weights in the top compartment of the shopping cart. This area normally reserved for a young child, had openings for an infant or toddlers’ legs. The cashier did not put up a flap which would have prevented items from slipping through the leg holes.

12. Ms. Avellaneda paid the cashier and proceeded out of the front of the store. Ms. Avellaneda was carrying her child in one hand and pushing her shopping cart with the other. As soon as she exited Store 5147, the cart hit a bump and the dumbbells flew out of the shopping cart, landing on Ms. Avellaneda’s left foot causing injury.

V. CAUSES OF ACTION

COUNT 1: NEGLIGENCE

13. Plaintiff adopts and incorporates paragraphs 1-12 above and alleges that Defendants were negligent in one or more of the following respects:

- a) In failing to warn Ms. Avellaneda of an unreasonably dangerous condition existing in an area of Store 5147 under Defendants’ control;

- b) In failing to place a known heavy object in the main compartment of the basket, thereby preventing an injury of this nature;
- c) In creating an unreasonably dangerous condition by placing a known heavy object in an unsafe part of the basket; and
- d) In failing to correct lift the leg flap on the basket which would have prevented the dumbbell from falling on Plaintiff's foot.

14. Each of these acts and omissions, whether taken singularly or in combination, constituted negligence by Defendants and is the proximate cause of the incident made the basis of this suit and the injuries and damages sustained by Plaintiff.

VI. DAMAGES

15. As a direct and proximate cause of Defendants' negligence, Ms. Avellaneda sustained severe bodily injuries which included, but are not limited to a: a broken foot requiring surgical intervention and years of therapy. The injuries mentioned have had an adverse effect on Ms. Avellaneda's health and well-being. Further, she has experienced physical pain and suffering, physical impairment, and mental anguish. In all reasonable probability, she will continue to suffer in this manner into the future, if not for the balance of her natural life.

16. Ms. Avellaneda has incurred past medical expenses, which exceed the minimum jurisdictional limits of the court, and, in all reasonable likelihood, she will continue to incur future medical expenses as a result of her injuries.

VII. JURY DEMAND

17. Plaintiffs hereby demand trial by jury.

VIII. REQUEST FOR DISCLOSURE

18. Under Texas Rule of Civil Procedure 194, Plaintiffs request that Defendants disclose, within 50 days of the service of this request, the information or material described in Rule 194.2.

IX. PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that Defendants be cited to appear and answer herein, and that upon final hearing, Plaintiff have and recover judgment against the Defendants for past and future medical expenses, past and future physical pain and suffering, past and future emotional distress and mental anguish, loss of consortium, pre-judgment and post-judgment interest in the highest lawful rate, and any further relief both at law and in equity to which Plaintiffs may be justly entitled.

Respectfully Submitted,

ROCHELLE MCCULLOUGH, L.L.P.

By: /s/ Wesley H. M. Gould
Gregory H. Bevel
State Bar No. 02275800
greg.bevel@romclawyers.com
Wesley H. M. Gould
State Bar No. 24095214
wgould@romclaw.com
325 N. St. Paul Street
Suite 4500
Dallas, Texas 75201
(214) 953-0182 Telephone
(214) 953-0185 Facsimile

ATTORNEYS FOR PLAINTIFFS

EXHIBIT C



GREGORY H. BEVEL, *PARTNER Marcus Turner
WESLEY H. M. GOULD, ASSOCIATE
CHRISTY A. RAMOS, PARALEGAL

*Board Certified - Personal Injury Trial Law
Texas Board of Legal Specialization

Email:
greg.bevel@romclaw.com
wgould@romclaw.com
cramos@romclaw.com

Direct:
(214) 580-2508
(214) 580-2570
(214) 580-2507

August 20, 2018

VIA E-FILE

Clerk of the Court
Judicial District
Dallas County

RE: Avellaneda v. Wal-Mart Stores, Inc. and Wal-Mart Stores Texas, LLC
Cause No. DC-18-11330

Dear Clerk of the Court:

Plaintiff filed their original Petition and Request for Discovery on August 17, 2018. We are requesting the court to issue the following citations:

Defendant: Wal-Mart Stores, Inc.
CT Corporation System
1999 Bryan Street, Suite 900
Dallas, Texas 75201-3136

Defendant: Wal-Mart Stores Texas, LLC
CT Corporation System
1999 Bryan Street, Suite 900
Dallas, Texas 75201-3136

Please email the citation to Wesley Gould at wgould@romclaw.com.

If you have any questions, please feel free to contact me. Thank you for your help.

Sincerely,

/s/ Christy Ramos

Christy Ramos
Paralegal

EXHIBIT D

Case 3:18-cv-02635-E Document 1-1 Filed 10/04/18 Page 16 of 29 PageID 22
CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____ COURT (FOR CLERK USE ONLY): _____

STYLED VERONICA AVELLANEDA V. WAL-MART STORES, INC. AND WAL-MART STORES TEXAS, LLC

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

| 1. Contact information for person completing case information sheet: Name: _____ Email: _____ Greg H. Bevel _____ greg.bevel@romclaw.com _____ Address: _____ Telephone: _____ 325 N. Saint Paul St. Ste.4500 _____ 214-953-0182 _____ City/State/Zip: _____ Fax: _____ Dallas, Texas 75201 _____ 214-953-0185 _____ Signature: _____ State Bar No: _____ _____ 02275800 _____ | | Names of parties in case: Plaintiff(s)/Petitioner(s): Veronica Avellaneda _____ Defendant(s)/Respondent(s): Wal-Mart Stores, Inc. and _____ Wal-Mart Stores Texas, LLC _____ [Attach additional page as necessary to list all parties] | Person or entity completing sheet is: <input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____ Additional Parties in Child Support Case: Custodial Parent: _____ Non-Custodial Parent: _____ Presumed Father: _____ | | | | | | | | | | | |
|---|---|---|--|---|---|---|--|---|---|--|--|--|---|--|
| 2. Indicate case type, or identify the most important issue in the case (select only 1): | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <th align="center" colspan="2">Civil</th> <th align="center" colspan="2">Family Law</th> </tr> <tr> <td style="width:25%; vertical-align: top;"> Contract <i>Debt/Contract</i> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <i>Foreclosure</i> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____ </td> <td style="width:25%; vertical-align: top;"> Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input checked="" type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____ </td> <td style="width:25%; vertical-align: top;"> Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____ </td> <td style="width:25%; vertical-align: top;"> Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____ </td> </tr> <tr> <td colspan="2"></td> <td style="width:25%; vertical-align: top;"> Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order </td> <td style="width:25%; vertical-align: top;"> Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____ </td> </tr> </table> | | | Civil | | Family Law | | Contract <i>Debt/Contract</i> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <i>Foreclosure</i> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____ | Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input checked="" type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____ | Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____ | Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____ | | | Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order | Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____ |
| Civil | | Family Law | | | | | | | | | | | | |
| Contract <i>Debt/Contract</i> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____ <i>Foreclosure</i> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____ | Injury or Damage <input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <i>Malpractice</i> <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: _____ <input type="checkbox"/> Motor Vehicle Accident <input checked="" type="checkbox"/> Premises <i>Product Liability</i> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____ | Real Property <input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____ Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____ | Marriage Relationship <input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <i>Divorce</i> <input type="checkbox"/> With Children <input type="checkbox"/> No Children Other Family Law <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____ | | | | | | | | | | | |
| | | Post-judgment Actions (non-Title IV-D) <input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocity (UIFSA) <input type="checkbox"/> Support Order | Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____ | | | | | | | | | | | |
| Employment <input type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____ | | Other Civil <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____ | | | | | | | | | | | | |
| Tax <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax | | Probate & Mental Health <i>Probate/Wills/Intestate Administration</i> <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings <input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____ | | | | | | | | | | | | |
| 3. Indicate procedure or remedy, if applicable (may select more than 1): | | | | | | | | | | | | | | |
| <table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:33%; vertical-align: top;"> <input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action </td> <td style="width:33%; vertical-align: top;"> <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment </td> <td style="width:33%; vertical-align: top;"> <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover </td> </tr> </table> | | | | <input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action | <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment | <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover | | | | | | | | |
| <input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action | <input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment | <input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover | | | | | | | | | | | | |
| 4. Indicate damages sought (do not select if it is a family law case): <input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000 | | | | | | | | | | | | | | |

EXHIBIT E

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To:

**WAL-MART STORES TEXAS, LLC
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201**

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **116th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **Veronica Avellaneda**

Filed in said Court **17th day of August, 2018** against

WAL-MART STORES TEXAS, LLC AND WAL-MART STORES, INC

For Suit, said suit being numbered **DC-18-11330**, the nature of which demand is as follows:
Suit on **OTHER PERSONAL INJURY** etc. as shown on said petition **REQUEST FOR ADMISSION, REQUEST FOR DISCLOSURE, REQUEST FOR FIRST SET OF INTERROGATORIES, AND REQUEST FOR PRODUCTION.**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.

Given under my hand and the Seal of said Court at office this 30th day of August, 2018.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By , Deputy
SACHEEN ANTHONY



ESERVE

CITATION

DC-18-11330

**Veronica Avellaneda
vs.
WAL-MARTSTORES, INC, et al**

**ISSUED THIS
30th day of August, 2018**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: **SACHEEN ANTHONY**, Deputy

**Attorney for Plaintiff
WESLEY GOULD
WGOULD@R0MCLAW.COM
325 N ST PAUL STREET
SUITE 4500
DALLAS TX 75201
214-953-0182**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-18-11330

Court No. 116th District Court

Style: Veronica Avellaneda

vs.

WAL-MARTSTORES, INC, et al

Came to hand on the _____ day of _____, 20_____, at _____ o'clock _____ M. Executed at _____,
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____,
20_____, by delivering to the within named

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

| | | |
|----------------------|----------|------------------------|
| For serving Citation | \$ _____ | _____ |
| For mileage | \$ _____ | of _____ County, _____ |
| For Notary | \$ _____ | By _____ Deputy |

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20_____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

EXHIBIT F

Daniel Macias

**FORM NO. 353-3 - CITATION
THE STATE OF TEXAS**

To:

WAL-MART STORES, INC
REGISTERED AGENT CT CORPORATION SYSTEM
1999 BRYAN STREET SUITE 900
DALLAS TX 75201

GREETINGS:

You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10 o'clock a.m. of the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you. Your answer should be addressed to the clerk of the **116th District Court** at 600 Commerce Street, Ste. 101, Dallas, Texas 75202.

Said Plaintiff being **Veronica Avellaneda**

Filed in said Court **17th day of August, 2018** against

WAL-MART STORES TEXAS, LLC AND WAL-MART STORES, INC

For Suit, said suit being numbered **DC-18-11330**, the nature of which demand is as follows:
Suit on **OTHER PERSONAL INJURY** etc. as shown on said petition **REQUEST FOR ADMISSION, REQUEST FOR DISCLOSURE, REQUEST FOR FIRST SET OF INTERROGATORIES, AND REQUEST FOR PRODUCTION.**, a copy of which accompanies this citation. If this citation is not served, it shall be returned unexecuted.

WITNESS: FELICIA PITRE, Clerk of the District Courts of Dallas, County Texas.
Given under my hand and the Seal of said Court at office this 30th day of August, 2018.

ATTEST: FELICIA PITRE, Clerk of the District Courts of Dallas, County, Texas

By *Sacheen Anthony*, Deputy
SACHEEN ANTHONY



ESERVE

CITATION

DC-18-11330

**Veronica Avellaneda
vs.
WAL-MARTSTORES, INC, et al**

**ISSUED THIS
30th day of August, 2018**

**FELICIA PITRE
Clerk District Courts,
Dallas County, Texas**

By: **SACHEEN ANTHONY, Deputy**

**Attorney for Plaintiff
WESLEY GOULD
WGOULD@ROMCLAW.COM
325 N ST PAUL STREET
SUITE 4500
DALLAS TX 75201
214-953-0182**

**DALLAS COUNTY
SERVICE FEES
NOT PAID**

OFFICER'S RETURN

Case No. : DC-18-11330

Court No. 116th District Court

Style: Veronica Avellaneda

vs.

WAL-MARTSTORES, INC., et al

Came to hand on the _____ day of _____, 20____, at _____ o'clock _____ M. Executed at _____
within the County of _____ at _____ o'clock _____ M. on the _____ day of _____
20____, by delivering to the within named _____

each, in person, a true copy of this Citation together with the accompanying copy of this pleading, having first endorsed on same date of delivery. The distance actually traveled by
me in serving such process was _____ miles and my fees are as follows: To certify which witness my hand.

For serving Citation

\$ 125.00

For mileage

\$ _____

For Notary

\$ _____

of _____ County, _____

By _____ Deputy

(Must be verified if served outside the State of Texas.)

Signed and sworn to by the said _____ before me this _____ day of _____, 20____,
to certify which witness my hand and seal of office.

Notary Public _____ County _____

CAUSE NO. DC-18-11330

VERONICA AVELLANEDA

Plaintiff(s),

VS.

WAL-MART STORES TEXAS, LLC AND
WAL-MART STORES, INC

Defendant(s).

§
§
§
§
§
§
§
§

IN THE DISTRICT COURT

116TH JUDICIAL DISTRICT

DALLAS COUNTY, TEXAS

RETURN OF SERVICE

Came to my hand on **Friday, August 31, 2018 at 1:15 PM,**
Executed at: **1999 BRYAN ST. SUITE 900, DALLAS, TX 75201**
within the county of **DALLAS** at **12:35 PM,** on **Tuesday, September 4, 2018,**
by individually and personally delivering to the within named:

WAL-MART STORES, INC

By delivering to its **Registered Agent, CT CORPORATION SYSTEM**
By delivering to its **Authorized Agent, TERRI THONGSAVAT**
a true copy of this

**CITATION, PLAINTIFF'S ORIGINAL PETITION, REQUEST FOR ADMISSION, REQUEST
FOR DISCLOSURE, REQUEST FOR FIRST SET OF INTERROGATORIES, AND REQUEST
FOR PRODUCTION**

having first endorsed thereon the date of the delivery.

BEFORE ME, the undersigned authority, on this day personally appeared **Steven J. Treni** who after being duly sworn on oath states: "My name is **Steven J. Treni**. I am a person over eighteen (18) years of age and I am competent to make this affidavit. I am a resident of the State of Texas. I have personal knowledge of the facts and statements contained in this affidavit and aver that each is true and correct. I am not a party to this suit nor related or affiliated with any herein, and have no interest in the outcome of the suit. I have never been convicted of a felony or of a misdemeanor involving moral turpitude. I am familiar with the Texas Rules of Civil Procedure, and the Texas Practice and Remedies Codes as they apply to service of process. I am approved by the Supreme Court of Texas, Misc. Docket No. 05-9122 under Rule 103 and 501.2 of the TRCP to deliver citations and other notices from any District, County and Justice Courts in and for the State of Texas."

By:



Steven J. Treni - PSC 1912 - Exp 4/30/19
PO Box 801811 Dallas, Texas 75380

Subscribed and Sworn to by **Steven J. Treni**, Before Me, the undersigned authority, on this
5th day of **September, 2018.**


Notary Public in and for the State of Texas

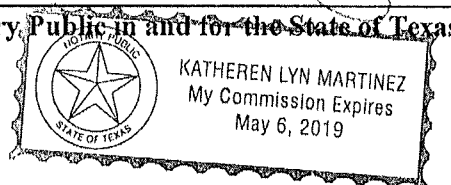


EXHIBIT G

Lafonda Sims

CAUSE NO. DC-18-11330

| | | |
|----------------------------|---|-------------------------------------|
| VERONICA AVELLANEDA | § | IN THE DISTRICT COURT |
| Plaintiff, | § | |
| | § | |
| v. | § | 116 TH JUDICIAL DISTRICT |
| | § | |
| WAL-MART STORES, INC. AND | § | |
| WAL-MART STORES TEXAS, LLC | § | DALLAS COUNTY, TEXAS |
| Defendant. | | |

**DEFENDANT WAL-MART STORES TEXAS, LLC'S
ORIGINAL ANSWER TO PLAINTIFF'S ORIGINAL PETITION**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, WAL-MART STORES TEXAS, LLC ("Defendant") (incorrectly named Wal-Mart Stores, Inc.) in the above-styled and numbered cause, and files this Original Answer, and in support hereof would respectfully show unto the Court the following.

I.

GENERAL DENIAL

1. Defendant denies each and every, all and singular, the material allegations made and contained in the Original Petition and any petition which Plaintiff may hereinafter file by way of amendment or supplement, and, in accordance with Texas law, demands that Plaintiff prove by a preponderance of the credible evidence each and every such allegation made and contained therein, or the prevailing standard of proof required by applicable law.

II.

AFFIRMATIVE DEFENSES

2. In the alternative, and without waiving the foregoing, Defendant affirmatively pleads the defense set forth in Texas Civil Practice and Remedies Code Section 18.091, requiring Plaintiff to prove his loss of earning and/or loss of earning capacity in the form which represents his net loss after reduction for income tax payments or unpaid tax liability on said loss or earning claim pursuant to any federal income tax law. Tex. Civ. Prac. & Rem. Code Sec. 18.091. Additionally, Defendant requests the Court to instruct the jury as to whether any recovery for compensatory damages sought by the Plaintiff, if any, is subject to federal to state income taxes.

3. Pleading further, Defendant would show that it is entitled to a credit or offset equal to the amount of any and all sums that the Plaintiff has received, or may hereinafter receive, by way of settlement with any person or party. Alternatively, pursuant to Rule 48 of the Texas Rules of Civil Procedure, Defendant contends that it is entitled to a proportionate reduction of any damages found against it based upon the percentage of negligence attributable to the settling tortfeasor, cross claimant, designated third party, or other party to this case.

4. Additionally, to the extent Plaintiff's medical expenses exceed the amount actually paid on Plaintiff's behalf to his medical providers, Defendant asserts the statutory defense set forth in Section 41.0105 of the Texas Civil Practice and Remedies Code. Tex. Civ. Prac. & Rem. Code Sec. 41.0105. Thus, recovery of medical or health care expenses incurred by Plaintiff, if any, are limited to the amount actually paid or incurred by or on behalf of Plaintiff.

5. Pleading further, and in the affirmative, Defendant asserts the doctrine of proportionate responsibility of TEX. CIV. PRAC. & REM. CODE Chapter 33, which may bar any

recovery by Plaintiff, or may in the alternative, reduces the amount of recovery by Plaintiff based on the Plaintiff's own percentage of fault.

6. Pleading further, and in the affirmative, Defendant alleges that the injuries and damages alleged by Plaintiff may be due to Plaintiff's own negligence and recklessness in that his failure to exercise ordinary care proximately caused, in whole or in part, the alleged injuries and damages complained of by Plaintiff. Plaintiff's acts and omissions, whether taken together or separately, may be the sole proximate cause, or a proximate cause of the injuries and damages Plaintiff has alleged in this lawsuit. Any recovery by Plaintiff is therefore barred, or alternatively should be reduced in accordance with the applicable law.

7. Pleading further, and in the affirmative, the injuries plead by Plaintiff may have been caused, in whole or in part, by superseding and/or intervening causes, including pre-existing conditions and/or injuries and subsequently occurring injuries and/or conditions that were not Defendant's own creation.

8. Pleading further, and in the affirmative, Defendant would show that the alleged occurrence made the basis of this lawsuit was the result of circumstances and/or events that were not of Defendant's own creation. Defendant would further show that it acted just as a similar situated reasonable premises owner would have acted under the same or similar circumstances surrounding the matters made the basis of this lawsuit.

9. Pleading further, and in the affirmative, Defendant asserts the doctrine of comparative causation as set forth in Chapter 33 of the TEXAS CIVIL PRACTICE & REMEDIES CODE, which may bar any recovery by Plaintiff, or may in the alternative reduce the amount of recovery by Plaintiff based on the Plaintiff's own percentage of fault.

10. Pleading further, and in the affirmative, Defendant invokes §41.0105 of the TEXAS CIVIL PRACTICE & REMEDIES CODE concerning Plaintiff's claim for the recovery of health care expenses and other related damages, past and future.

11. Pleading further, and in the affirmative, Defendant alleges Plaintiff's claims for pre-judgment interest are limited by the dates and amounts set forth in §304.101 of the TEXAS FINANCE CODE and §41.007 of the TEXAS CIVIL PRACTICE & REMEDIES CODE.

12. Pleading further, if necessary, Plaintiff failed to mitigate his damages which may have resulted from the occurrence made the basis of this lawsuit.

13. Pleading further, if necessary, Defendant states that the alleged occurrence, incident, event or accident made the basis of this suit may have been caused by the negligence of a third party or third parties over whom Defendant had no control and said negligence was the proximate cause, or in the alternative, the sole proximate cause of the occurrence, incident, event or accident made the basis of this suit and of the alleged damages to Plaintiff.

14. Pleading further, if necessary, Plaintiff's claims may have been caused by an unavoidable accident, Act of God, or an occurrence without any fault on the part of Defendant.

V.

DEMAND FOR JURY TRIAL

16. In accordance with Rule 216 of the Texas Rules of Civil Procedure, Defendant hereby demands a trial by jury.

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff take nothing by this suit against Defendant, that Defendant be discharged, and that the Court grant such other and further relief, both general and special, at law and in equity to which Defendant may be justly entitled.

Respectfully submitted,

COOPER & SCULLY, P.C.

By: /s/ Derek Davis

DEREK S. DAVIS

Texas Bar No. 00793591

Email: Derek.Davis@CooperScully.com

S. HUNTER WALTON

Texas Bar No. 24106548

Email: Hunter.Walton@CooperScully.com

900 Jackson, Suite 100

Dallas, Texas 75202

(214) 712-9500

(214) 712-9540 (fax)

ATTORNEYS FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on the 24th day of September 2018, a true and correct copy this document was served on counsel of record via Eservice as follows:

Wesley H. M. Gould
Gregory H. Bevel
ROCHELLE MCCULLOUGH, LLP
325 N. St. Paul, Suite 4500
Dallas, Texas 75201
wgould@romclaw.com
greg.bevel@romclawyers.com

/s/ Derek Davis

DEREK S. DAVIS